

REMARKS

Restriction/Elections

In the Office Action dated September 10, 2007, restriction to one of the following inventions was requested under 35 U.S.C. 121:

- Group I: Claims 1-20, drawn to a method for matching a buy order having a buy order price and a sell order having a sell order price, comprising the steps of: identifying an NBBO price range; determining if said buy order price and said sell order price are within said NBBO range, determining if said buy order price is not less than said sell order price; calculating a midpoint between said buy order price and said sell order price; and only matching said buy order and said sell order at said midpoint if said buy order price is not less than said sell order price and said buy order price and said sell order price are within said NBBO range, classified in class 705, subclass 37.
- Group II: Claims 21-36, drawn to a crossing system, comprising: a plurality of passive orders, wherein said passive orders include at least one order selected from the group consisting of: not held designated orders, cross only designated orders and do not represent designated orders; a plurality of pass-through orders, said plurality of passive orders and said plurality of pass-through orders including buy orders and sell orders; a crossing network, said crossing network receiving said plurality of pass-through orders and said plurality of passive orders for matching said buy orders and said sell orders; an order router in communication with said crossing network and with at least one external order destination, said order router receiving at least a portion of said pass-through orders from said crossing network and forwarding said at least a portion of said pass-through orders

to said at least one external order destination classified in class 705, subclass 37.

Applicants hereby elect, without traverse, Group I (Claims 1-20) directed to a method for matching a buy order having a buy order price and a sell order having a sell order price, comprising the steps of: identifying an NBBO price range; determining if said buy order price and said sell order price are within said NBBO range, determining if said buy order price is not less than said sell order price; calculating a midpoint between said buy order price and said sell order price; and only matching said buy order and said sell order at said midpoint if said buy order price is not less than said sell order price and said buy order price and said sell order price are within said NBBO range, classified in class 705, subclass 37.

Applicants expressly reserve the right to the non-elected subject matter including the right to file one or more continuation and/or divisional applications to that subject matter, as now embraced in non-elected Claims 21-36.

New apparatus claim 37 and new article of manufacture claim 38 have been added and each of the added claims is believed to be in Group I. The new claims 37 and 38 each recite an apparatus (system) and article of manufacture (computer readable storage medium storing instructions) claims that can carry out the steps of a method for matching a buy order having a buy order price and a sell order having a sell order price. These operations may be implemented by a method in the form of the method of claim 1 (i.e., a computer-implemented method for matching a buy order having a buy order price and a sell order having a sell order price). Consequently, with respect to the method of claims 1-20, it is believed that the apparatus and article of manufacture of claims 37-38 (respectively) should not be subject to a restriction requirement as an apparatus and article of manufacture that can be used to practice another "materially different" method, nor should the method as recited in claims 1-20 be subject to a restriction requirement as a method that can be practiced by another "materially different" apparatus or article of manufacture. If the Examiner is not in agreement, the undersigned suggest a brief telephone conference to discuss suitable clarifying language.

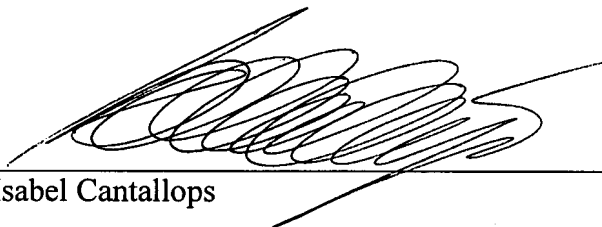
CONCLUSION

Claims 21-36 have been withdrawn. Claims 37 and 38 have been added. Claims 1-20 and 37-38 are now pending and believed to be in proper form for allowance.

Please charge any fees for this response or credit any overpayments to Deposit Account No. 50-0521.

Respectfully submitted,

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